रजिस्ट्री सं. डी-(डी)-72

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 37] नई दिल्ली, मंगलवार, जुलाई 31, 1984/श्रावण 9, 1906
No. 37] NEW DELHI, TUESDAY, JULY 31, 1984/SRAVANA 9, 1906

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 31st July, 1984:—

BILL NO. 57 OF 1984

A Bill to provide for the acquisition and transfer, in the public interest, of the undertakings of Messrs Bengal Immunity Company Limited, and for matters connected therewith or incidental thereto.

WHEREAS Messrs Bengal Immunity Company Limited were engaged in the production and distribution of articles specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, namely, chemicals (other than fertilizers), drugs and pharmaceuticals which are essential to the needs of the general public;

65 of 1951.

AND WHEREAS the Central Government, being of opinion, after an investigation into the affairs of the Company, that the affairs of the Company have been managed in a manner highly detrimental to the public interest, had authorised, under section 18A of the Industries (Development and Regulation) Act, 1951, a body of persons to take over the management of the Company;

65 of 1951.

AND WHEREAS for the purpose of reconstructing and rehabilitating the undertakings owned by the Company so as to subserve the interests of the general public by the augmentation of production and distribution of different varieties of chemicals (other than fertilizers), drugs and

pharmaceuticals which are essential to the needs of the general public and to secure the continued supply thereof, it is necessary to acquire the undertakings of the Company;

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Bengal Immunity Company Limited (Acquisition and Transfer of Undertakings) Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification, appoint.

Definitions

2. In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the date of commencement of this Act;

(*b*) "Commissioner" means the Commissioner of Payments appointed under section 15;

(*c*) "Company" means the Bengal Immunity Company Limited, being a company as defined in the Companies Act, 1956, and having its registered office at 153, Lenin Saranee, Calcutta-700013; 1 of 1956.

(*d*) "existing Government company" means a Government company which is carrying on business on the appointed day;

(*e*) "new Government company" means a Government company formed and registered on or after the appointed day;

(*f*) "notification" means a notification published in the Official Gazette;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "specified date" means such date as the Central Government may, for the purpose of any of the provisions of this Act, by notification, specify, and different dates may be specified for different provisions of this Act;

(*i*) words and expressions used herein and not defined, but defined in the Companies Act, 1956, have the meanings, respectively, assigned to them in that Act. 1 of 1956.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE COMPANY

Transfer to, and vesting in Central Government of the undertakings of the Company.

3. On the appointed day, the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, shall, by virtue of this Act, stand transferred to, and vest in, the Central Government.

General effect of vesting.

4. (1) The undertakings of the Company shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, offices, factories, workshops, stores, instruments, plants, machinery and equipment, installations, laboratories, office furniture, stationery and equipment, vehicles, patents, trade marks, cash balances, cash on hand, reserve funds, investments, book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the Company, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

(2) All properties and assets as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting them, and any attachment, injunction, decree or order of any court, tribunal or other authority restricting the use of such properties or assets in any manner or appointing any receiver in respect of the whole or any part of such properties or assets shall be deemed to have been withdrawn.

(3) Every mortgagee of any property which has vested, under this Act, in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (3) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled, to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amount specified in section 8, and also out of the amounts determined under section 9, but, no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) Any licence or other instrument granted to the Company in relation to any undertaking which has vested in the Central Government under section 3 at any time before the appointed day and in force immediately before the appointed day shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purposes of such undertaking, and, on and from the date of vesting of such undertaking, under section 6 in an existing Government company, or under section 7, in a new Government company the existing or new, Government company, as the case may be shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to such existing, or new, Government company and such existing, or new, Government company shall hold it for the remainder of the period for which the Company would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding, of whatever nature, in relation to any property or asset which has vested in the Central Government under section 3, instituted or preferred by

or against the Company is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of the Company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or where the undertakings of the Company are directed under section 6 to vest in an existing Government company, or become transferred by virtue of the provisions of section 7 to a new Government company, by or against such Government company.

Central Government or existing, or new, Government company, not to be liable for certain prior liabilities.

5. (1) Every liability of the Company in respect of any period prior to the 1st day of April, 1983, shall be the liability of the Company and shall be enforceable against it and not against the Central Government, or, where the undertakings of the Company are directed, under section 6, to vest in an existing Government company, or become transferred by virtue of the provisions of section 7, to a new Government company, against such Government company.

(2) Any liability incurred by, or arising against, the Company on or after the 1st day of April, 1983, including the liability to repay loans advanced to the Company by the Central Government on or after that day, together with the interest due thereon, shall be the liability—

(a) where the undertakings of the Company are directed, under section 6, to vest in an existing Government company, of that existing Government company; or

(b) where the undertakings of the Company become transferred by virtue of the provisions of section 7, to a new Government company, of that new Government company,

and shall be discharged by such Government company as and when the discharge of such liability becomes due.

(3) For the removal of doubts, it is hereby declared that,—

(a) save as otherwise expressly provided in this Act, no liability of the Company in relation to its undertakings in respect of any period prior to the 1st day of April 1983, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed, under section 6, to vest in an existing Government company, or become transferred by virtue of the provisions of section 7, to a new Government company, against such Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company, passed on or after the appointed day, in respect of any matter, claim or dispute which arose before the 1st day of April, 1983, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 6, to vest in an existing Government company, or become transferred, by virtue of the provisions of section 7, to a new Government company, against such Government company;

(c) no liability incurred by the Company before the 1st day of April, 1983, for the contravention of any provision of law for the time being in force, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed, under section 6, to vest in an existing Government company, or become transferred, by virtue of the provisions of section 7, to a new Government company, against such Government company.

Power of Central Government to direct vesting of the undertakings of the Company in an existing Government company.

6. (1) Notwithstanding anything contained in sections 3 and 4, and subject to the provisions of section 7, the Central Government may, if it is satisfied that an existing Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct by notification, that the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in that existing Government company either on the date of publication of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title and interest of the Company in relation to its undertakings vest, under sub-section (1), in an existing Government company, that Government company shall, on and from the date of such vesting be deemed to have become, and until the transfer of the undertakings by virtue of the provisions of section 7 to a new Government company, be deemed to be, the owner in relation to such undertakings and the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become, and until the date of such transfer, be deemed to be, the rights and liabilities, respectively, of that existing Government company.

Transfer of the undertakings of the Company from an existing Government company to a new Government company

7. (1) Notwithstanding anything contained in sections 3 and 4, where the undertakings of the Company have been directed, under sub-section (1) of section 6, to vest in an existing Government company, the Central Government may, if it is satisfied that a new Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, declare, by notification, that the undertakings of the Company be transferred to that new Government company, and on the issue of such declaration, the right, title and interest of the Company in relation to its undertakings which had been directed under sub-section (1) of section 6 to vest in that existing Government company, shall, instead of continuing to vest in that existing Government company, vest in that new Government company with effect from the date on which such declaration is made

(2) Where the right, title and interest of the existing Government company in relation to the undertakings of the Company vest under sub-section (1) in a new Government company, that new Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings and all the rights and liabilities of the existing Government company in relation to such under-

takings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of that new Government company.

CHAPTER III

PAYMENT OF AMOUNTS

Payment of amount.

8. For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings, there shall be given by the Central Government to the Company, in cash, and in the manner specified in Chapter VI, an amount of rupees seven hundred and sixty-six lakhs and ninety thousand.

Payment of further amount.

9. (1) For the deprivation of the Company of the management of its undertakings, there shall be given to the Company by the Central Government an amount calculated at the rate of two thousand rupees per month for the period commencing on the date on which the management of the undertakings of the Company was taken over by the persons authorised by the Central Government under section 18A of the Industries (Development and Regulation) Act, 1951, and ending on the appointed day. 65 of 1951.

(2) The amount specified in section 8, and the amount determined under sub-section (1) shall carry simple interest at the rate of four per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amounts is made by the Central Government to the Commissioner.

(3) The amounts determined in accordance with the provisions of sub-sections (1) and (2) shall be given by the Central Government to the Company in addition to the amount specified in section 8.

(4) For the removal of doubts, it is hereby declared that the liabilities of the Company in relation to its undertakings which have vested in the Central Government under section 3 shall be discharged from the amount referred to in section 8, and also from the amounts determined under sub-sections (1) and (2), in accordance with the rights and interests of the creditors of the Company.

CHAPTER IV

MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE COMPANY

Management, etc., of the undertakings of the Company.

10. The general superintendence, direction, control and management of the affairs and business of the undertakings of the Company, the right, title and interest in relation to which have vested in the Central Government under section 3, shall,—

(a) where a direction has been given by the Central Government under sub-section (1) of section 6, vest, on and from the date specified in such direction, in the existing Government company specified therein; or

(b) where a declaration has been made under sub-section (1) of section 7, vest, on and from the date of such declaration, in the new Government company specified therein,

and thereupon the existing, or new, Government company so specified, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to its undertakings.

Duty of persons in charge of management of undertakings of the Company to deliver all assets, etc.

11. (*1*) On the vesting of the management of the undertakings of the Company in an existing, or a new, Government company, all persons in charge of the management of the undertakings of the Company immediately before such vesting shall be bound to deliver to such Government company, all assets, books of account, registers and other documents in their custody relating to the undertakings.

(*2*) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the existing, or new, Government company and such Government company may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the Company shall be conducted or in relation to any other matter arising in the course of such management.

(*3*) Any person, who on the appointed day has in his possession or under his control any books, documents or other papers relating to the undertakings of the Company which have vested in the Central Government or in any existing, or new, Government company and which belong to the Company, or would have so belonged if the undertakings of the Company had not vested in the Central Government or the existing, or new, Government company, shall be liable to account for the said books, documents or other papers to the Central Government or the existing, or new, Government company, as the case may be, and shall deliver them up to the Central Government or the existing, or new, Government company or to such person or body of persons as the Central Government or such Government company may specify in this behalf.

(*4*) The Central Government or the existing, or new, Government company may take, or cause to be taken, all necessary steps for securing possession of all undertakings which have vested in the Central Government or the existing, or new, Government company under this Act.

(*5*) The Company shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all its properties and assets, as on the appointed day, pertaining to the undertakings which have vested in the Central Government under section 3, and, for this purpose, the Central Government or the existing, or new, Government company shall afford to the Company all reasonable facilities.

Accounts to be rendered by the Company or any other person.

12. (*1*) Where, in pursuance of any decree, order or injunction of any court or otherwise—

(*a*) the authorised persons were, after the date on which the management of the undertakings of the Company was taken over by them under section 18A of the Industries (Development and Regulation) Act, 1951 and before the appointed day; or

65 of 1951.

(b) the Central Government or the existing, or new, Government company, as the case may be, is, on or after the appointed day,

prevented from taking over the management of any part of the undertakings of the Company, the Company, or any other person in possession, custody or control of such part, shall, in relation to the period commencing on the date of such taking over and ending on the date on which such part was or is handed over to the authorised persons or, as the case may be, the Central Government or the existing, or new, Government company, render, within a period of sixty days from the appointed day or where such part was so handed over after the appointed day, within a period of sixty days from the date of such handing over, accounts with regard to the—

(i) assets and stores of the undertakings or any part thereof, acquired, utilised or sold during the said period; and

(ii) income derived by the Company or any other persons from the undertakings or any part thereof during the said period,

to the Central Government or the existing, or new, Government company, as the case may be.

(2) If, on examination of the accounts referred to in sub-section (1), any income or other monies is or are found to have been derived by the Company or any other person from such undertakings or any part thereof during the period referred to in that sub-section, or any other monies are found to be payable to the Company, such income or other monies shall be recoverable by the Central Government or the existing, or new, Government company from the Company or such other person, as the case may be, and from the amount payable under this Act to the Company and the debt due to the Central Government or the existing, or new, Government company, as the case may be, on this account shall rank as an unsecured debt.

(3) If no account is rendered by the Company or such other person in respect of the undertakings or any part thereof within the period referred to in sub-section (1) or if the Central Government or the existing, or new, Government company, as the case may be, has any reason to believe that the account rendered by the Company or such other person is incorrect or false in any material particular, the Central Government or the existing, or new, Government company, as the case may be, may refer the matter to the Commissioner and thereupon the Commissioner shall determine the income derived by the Company or such other person from such undertakings or any part thereof during the period referred to in sub-section (1) and take steps to recover the said income or other monies from the Company or such other person and from the amount payable to the Company under this Act, as if the debt due to the Central Government or the existing, or new, Government company, as the case may be, on this account were an unsecured debt.

(4) No mortgage, charge, lien or other incumbrance in relation to the undertakings of the Company or any part thereof shall be binding

on the Central Government or the existing, or new, Government company, as the case may be, if such mortgage, charge, lien or other incumbrance was created, at any time during the period in which the authorised persons were and the Central Government or the existing, or new, Government company, as the case may be, is, prevented, by any decree, order or injunction of any court or otherwise, from taking over the management of such undertakings or any part thereof.

CHAPTER V

PROVISIONS RELATING TO THE EMPLOYEES OF THE COMPANY

Employment of certain employees to continue.

13. (*1*) Every person who has been, immediately before the appointed day, employed in any of the undertakings of the Company shall become,—

(*a*) on and from the appointed day, an employee of the Central Government; and

(*b*) where the undertakings of the Company are directed, under sub-section (*1*) of section 6 to vest in an existing Government company, or are transferred by virtue of the provisions of section 7, to a new Government company, an employee of such Government company on and from the date of such vesting or transfer, and shall hold office or service under the Central Government or the existing or new Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting or transfer and shall continue to do so unless and until his employment under the Central Government or the existing, or new, Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the existing, or new, Government company, as the case may be.

14 of 1947.

(*2*) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in the undertakings of the Company to the Central Government or the existing, or new, Government company, as the case may be, shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

Provident fund and other funds.

14. (*1*) Where the Company has established a provident fund, superannuation fund, welfare fund or other fund for the benefit of the persons employed in the undertakings of the Company, the monies relatable to the employees, whose services have become transferred by or under this Act to the Central Government or the existing, or new, Government company, as the case may be, shall, out of the monies standing, on the appointed day, to the credit of such provident, superannuation, welfare or other fund, stand transferred to, and shall vest in, the Central Government or the existing, or new, Government company, as the case may be.

(2) The monies which stand transferred under sub-section (1) to the Central Government or the existing, or new, Government company, as the case may be, shall be dealt with by that Government or the existing, or new, Government company in such manner as may be prescribed.

CHAPTER VI

COMMISSIONER OF PAYMENTS

Appointment of Commissioner of Payments.

15. (1) The Central Government shall for the purpose of disbursing the amounts payable under sections 8 and 9, by notification, appoint a commissioner of Payments.

(2) The Central Government may appoint such other persons at is may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

Payment by Central Government to the Commissioner.

16. (1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company—

(a) an amount equal to the amount specified in section 8; and

(b) an amount equal to the amounts payable to the Company under section 9.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner, in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) Interest accruing on the amounts standing to the credit of the deposit account referred to in sub-section (2) shall enure to the said account.

Certain powers of Central Government or existing, or new, Government company.

17. (1) The Central Government or the existing, or new, Government company, as the case may be, shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Company, in relation to its undertakings which have vested in the Central Government or the existing, or new, Government company, as the case may be, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

(2) The Central Government or the existing, or new, Government company, as the case may be, may make a claim to the Commissioner

with regard to every payment made by it after the appointed day for discharging any liability of the Company, in relation to any period prior to the 1st day of April, 1983; and every such claim shall have priority in accordance with the priorities attaching, under this Act, to the matter in relation to which such liability has been discharged by the Central Government or the existing, or new, Government company, as the case may be.

(3) Save as otherwise provided in this Act, the liabilities of the Company in respect of any transaction prior to the 1st day of April, 1983, which have not been discharged on or before the specified date, shall be the liabilities of the Company.

Claims to be made to the Commissioner.

18. Every person having a claim against the Company shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days and not thereafter.

Priority of claims.

19. The claims arising out of the matters specified in the Schedule shall have priorities in accordance with the following principles:—

(*a*) Category I shall have precedence over all other categories and Category II shall have precedence over Category III, and so on;

(*b*) the claims specified in each of the categories shall rank equally and be paid in full, but if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly;

(*c*) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

Examination of claims.

20. (*1*) On receipt of the claims made under section 18, the Commissioner shall arrange the claims in the order of priorities specified in the Schedule and examine the same in accordance with such order of priorities.

(2) If on examination of the claims, the Commissioner is of the opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category he shall not be required to examine any claim in respect of such lower category.

Admission or rejection of claims.

21. (1) After examining the claims with reference to the priorities set out in the Schedule, the Commissioner shall fix a date on or before which every claimant shall file the proof of his claims, failing which he shall be excluded from the benefit of the disbursements made by the Commissioner.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in such issue of any daily newspaper in the English language and in such issue of daily newspaper in such regional

language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, by order in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he will hold his sittings and shall, for the purpose of making any investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 45 of 1860. 2 of 1974

(7) A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, the appeal shall lie to the High Court at Calcutta and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

Disbursement of money by Commissioner to claimants.

22. After admitting a claim under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due, and, on such payment, the liability of the Company in respect of such claim shall stand discharged.

Disbursement of amounts to the Company and possession of certain machinery, equipment, etc.

23. (1) If, out of the monies paid to him in relation to the undertakings of the Company, there is a balance left after meeting the liabilities in accordance with the priorities specified in the Schedule, the Commissioner shall disburse such balance to the Company.

(2) Where the possession of any machinery, equipment or other property has vested in the Central Government or the existing, or new, Government company under this Act, but such machinery, equipment or other property does not belong to the Company, it shall be lawful for the Central Government or the existing, or new, Government company, as the case may be, to continue to possess such machinery, equipment and other property on the same terms and conditions under which they were possessed by the Company immediately before the appointed day.

Undisbursed or unclaimed amount to be deposited to the general revenue account.

24. Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up shall be transferred by the Commissioner to the general revenue account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the persons entitled to such payment and shall be dealt with as if such transfer had not been made and the order, if any, for payment of the claim being treated as an order for the refund of the revenue.

CHAPTER VII

MISCELLANEOUS

Act to have overriding effect

25. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act, or in any decree or order of any court, tribunal or other authority.

Contracts to cease to have effect unless ratified by the Central Government or existing, or new, Government company.

26. Every contract entered into by the Company in relation to its undertakings for any service, sale or supply, and in force immediately before the appointed day, shall, on and from the expiry of one hundred and eighty days from that day, cease to have effect unless such contract is, before the expiry of the said period, ratified in writing by the Central Government or, as the case may be, the existing, or new, Government company, and in ratifying such contract, the Central Government or, as the case may be, the existing, or new, Government company may make such alterations or modifications therein as it may think fit:

Provided that the Central Government or, as the case may be, the existing, or new, Government company shall not omit to ratify a contract and shall not make any alteration or modification therein—

(a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the Central Government or, as the case may be, such Government company; and

(b) except after giving the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for its refusal to ratify the contract or for making any alteration or modification therein.

Penalties.

27. A person who,—

(*a*) having in his possession, custody or control any property forming part of the undertakings of the Company, wrongfully withholds such property from the Central Government or the existing, or new, Government company, as the case may be, or any person or body of persons authorised by that Government or existing, or new, Government company; or

(*b*) wrongfully obtains possession of, or retains, any property forming part of any undertaking of the Company; or

(*c*) wilfully withholds or fails to furnish to the Central Government or, as the case may be, the existing, or new, Government company or any person or body of persons authorised by that Government or Government company, any document relating to such undertakings which may be in his possession, custody or control; or

(*d*) fails to deliver to the Central Government or, as the case may be, the existing, or new, Government company or any person or body of persons authorised by that Government or existing, or new, Government company, any assets, books of account, registers or other documents in his possession, custody or control relating to the undertakings of the Company; or

(*e*) wrongfully removes or destroys any property forming part of the undertakings of the Company or prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

Offences by companies.

28. (*1*) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Protection of action taken in good faith.

29. (*1*) No suit, prosecution or other legal proceeding shall lie against the Central Government or the existing, or new, Government company or any officer or other employee of that Government or Government company or any officer or other person authorised by that Government or Government company for anything which is in good faith done or intended to be done under this Act.

(*2*) No suit or other legal proceeding shall lie against the Central Government or the existing, or new, Government company or any officer or other employee of that Government or Government company or any officer or other person authorised by that Government or Government company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

Delegation of powers.

30. (*1*) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the power conferred by this section or section 31 or section 32, may also be exercised by such person or persons as may be specified in the notification.

(*2*) Whenever any delegation of power is made under sub-section (*1*), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

Power to make rules.

31. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the time within which, and the manner in which, an intimation referred to in sub-section (*3*) of section 4 shall be given;

(*b*) the manner in which monies in any provident fund or other fund referred to in section 14 shall be dealt with;

(*c*) any other matter which is required to be, or may be, prescribed.

(*3*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties.

32. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

THE SCHEDULE

(*See* sections 19, 20, 21 and 23)

ORDER OF PRIORITIES FOR THE DISCHARGE OF THE LIABILITIES OF THE COMPANY

Part A.—Post-take-over and pre-take-over periods

Category I—

Wages, salaries and other dues of the employees of the Company for the post-take-over period as well as arrears in relation to wages, salaries, provident fund and other dues of the employees for the pre-take-over period, including the contribution to be made to the Employees' State Insurance Fund and additional dearness allowance payable to employees.

Part B.—Post-take-over period

Category II—

(*a*) Loans advanced by the Central Government and interest due thereon.

(*b*) Loans advanced by banks and financial institutions, guaranteed by the Central Government and interest due thereon.

(*c*) Other loans.

Category III—

Credit availed of for purposes of trade or manufacturing operations.

Category IV—

(*a*) Revenue, taxes, cesses, rates or other dues to the Central Government or a State Government.

(*b*) Any other dues.

Part C.—Pre-take-over period

Category V—

Principal amount of loans advanced by banks and financial institutions and interest due thereon up to and including 18th May, 1978, that is to say, the date on which the notified order under section 18A of the Industries (Development and Regulation) Act, 1951, was published in the Official Gazette. 65 of 1951

Category VI—

Revenue, taxes, cesses, rates or any other dues payable to the Central Government or a State Government or a local authority.

Category VII—

Amounts due by way of interest on loans referred to in category V after 18th May, 1978 up to the date preceding the appointed day.

Category VIII—

(*a*) Any other credit availed of for purposes of trade or manufacturing operations.

(*b*) Any other dues.

STATEMENT OF OBJECTS AND REASONS

Messrs Bengal Immunity Company Limited, Calcutta, were engaged in the manufacture of chemicals (other than fertilizers), drugs and pharmaceuticals which were essential to the needs of the country. Due to labour problems and lack of proper resource management and long term planning, the Company went into serious financial and other difficulties resulting in the management applying to the Court for the closure of the Company. The Company was also being mismanaged. After investigation into the affairs of the Company through an Investigation Committee, the management of the undertakings of the Company was taken over on the 18th May, 1978 by the Central Government under section 18A of the Industries (Development and Regulation) Act, 1951. A Board of Management was appointed. It is necessary to acquire the undertakings of the Company for the purpose of reconstructing and rehabilitating the same so as to subserve the interests of the general public by the augmentation of production and distribution of different verieties of chemicals, drugs and pharmaceuticals which are essential to the needs of the general public.

2. The bill seeks to achieve the above objects.

NEW DELHI;
The 17th July, 1984.

VASANT SATHE.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. L-35(3)/81-D. V, dated the 21st July, 1984 from Shri Vasant Sathe, Minister of Chemicals and Fertilizers to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the proposed Bill to provide for the acquisition and transfer, in the public interest, of the undertakings of Messrs Bengal Immunity Company Limited, Calcutta, and for matters connected therewith or incidental thereto, recommends, under clauses (*1*) and (*3*) of article 117 of the Constitution of India, the introduction and consideration of the Bill in Lok Sabha.

FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for the payment in cash and in the manner specified in Chapter VI of an amount of Rs. 766.90 lakhs (Rupees seven hundred and sixty-six lakhs and ninety thousand only) for vesting in the Central Government the right, title and interest of the Company in relation to the undertakings owned by it.

2. Sub-clause (1) of clause 9 provides for payment of a further amount in cash, in consideration for the deprivation of the Company of the management of its undertakings, calculated at the rate of Rs. 2,000 (Rupees two thousand only) per month for the period commencing on the date on which the management of the undertakings of the Company was taken over by the persons authorised by the Central Government under section 18A of, the Industries (Development and Regulation) Act, 1951 and ending on the appointed day. It is estimated that this amount will be of the order of Rs. 1,54,000 (Rupees one lakh and fifty-four thousand only).

3. Sub-clause (2) of clause 9 provides for payment of simple interest on the amounts specified in clause 8 and sub-clause (1) of clause 9 at the rate of 4 per cent. per annum for the period commencing on the appointed day and ending with the day on which the payment of these amounts is made by the Central Government to the Commissioner of Payments. The interest payment in terms of the provisions of the sub-clause is of the order of Rs. 2,56.000 (Rupees two lakhs and fifty-six thousand only).

4. Clause 15 of the Bill provides for the appointment of the Commissioner of Payments by the Central Government with adequate staff to assist him for the purpose of disbursing the amounts payable to the Company, the salary and allowances of the Commissioner of Payments and his staff and expenditure on office and establishment will be defrayed out of the Consolidated Fund of India. The estimated expenditure on this account is likely to be of the order of Rs. 20,000 per month.

5. The post-take-over liabilities of the Industrial Reconstruction Corporation of India and the United Bank of India relating to principal amounts of loan amounting to Rs. 150.25 lakhs which were guaranteed by the Government will not be discharged by the Commissioner of Payments out of the amount paid to him under clause 8 of the Bill. In the interest of the Company and its continued functioning, it is proposed that the Central Government may provide in the budget for its payment.

6. Funds will also have to be provided to the Company for modernisation and expansion. The expenditure on this account is necessary to make the Company financially viable. A sum of Rs. 50 lakhs will be provided in the budget of 1984-85 towards non-plan loans for working capital for this Company and may have to be disbursed to the Company during the year.

7. The Bill, if enacted, is not likely to involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 31 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. The matters in respect of which rules may be made, *inter alia*, relate to the time within which, and the manner in which, intimation regarding any mortgage, charge, lien, etc., on the properties which have vested in the Central Government may be given to the Commissioner of Payments and the manner in which the monies in any provident fund, superannuation, welfare or other fund maintained by the Company shall be dealt with by the Central Government or the existing, or new, Government company.

2. The matters in respect of which such rules may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL No. 62 OF 1984

A Bill further to amend the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Banking Laws (Amendment) Act, 1984. Short title.

2. In the State Bank of India Act, 1955, after section 43, the following section shall be inserted, namely:— Insertion of new section 43A in Act 23 of 1955.

Bonus.

"43A. (*1*) No officer, adviser or other employee [other than an employee within the meaning of clause (*13*) of section 2 of the Payment of Bonus Act 1965] of the State Bank shall be entitled to be paid any bonus. 21 of 1965.

(*2*) No employee of the State Bank, being an employee within the meaning of clause (*13*) of section 2 of the Payment of Bonus Act,

1965, shall be entitled to be paid any bonus except in accordance with the provisions of that Act. 21 of 1965.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provision of this Act or in the Industrial Disputes Act, 1947, or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument.". 14 of 1947.

Insertion of new section 50A in Act 38 of 1969.

3. In the State Bank of India (Subsidiary Banks) Act, 1959, after section 50, the following section shall be inserted, namely:—

Bonus.

"50A. (1) No officer, adviser or other employee [other than an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965] of a subsidiary bank shall be entitled to be paid any bonus. 21 of 1965.

(2) No employee of a subsidiary bank, being an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965, shall be entitled to be paid any bonus except in accordance with the provisions of that Act. 21 of 1965.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provision of this Act or in the Industrial Disputes Act, 1947, or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument.". 14 of 1947.

Insertion of new section 12A in Act 5 of 1970.

4. In the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, after section 12, the following section shall be inserted, namely:—

Bonus.

"12A. (1) No officer or other employee [other than an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965] of a corresponding new bank shall be entitled to be paid any bonus. 21 of 1965.

(2) No employee of a corresponding new bank, being an employee within the meaning of clause (13) of section 2 of the Payment of Bonus Act, 1965, shall be entitled to be paid any bonus except in accordance with the provisions of that Act. 21 of 1965.

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other provision of this Act or in the Industrial Disputes Act, 1947, or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument.". 14 of 1947.

Insertion of new section 12A in Act 40 of 1980.

5. In the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, after section 12, the following section shall be inserted, namely:—

Bonus.

"12A. (*1*) No officer or other employee [other than an employee within the meaning of clause (*13*) of section 2 of the Payment
21 of 1965. of Bonus Act, 1965] of a corresponding new bank shall be entitled to be paid any bonus.

(*2*) No employee of a corresponding new bank, being an employee within the meaning of clause (*13*) of section 2 of the Pay-
21 of 1965. ment of Bonus Act, 1965, shall be entitled to be paid any bonus except in accordance with the provisions of that Act.

(*3*) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority and notwithstanding anything contained in any other
14 of 1947. provision of this Act or in the Industrial Disputes Act, 1947, or any other law for the time being in force or any practice, usage or custom or any contract, agreement, settlement, award or other instrument.",

STATEMENT OF OBJECTS AND REASONS

In an award notified on 14-1-1984, the Central Government Industrial Tribunal, Madras, held that the employees of the State of India covered by the award should be paid bonus at the rate of one month's substantive pay every half year on the ground that this has all along been the custom and practice. A writ petition filed against this award is pending in the Madras High Court.

2. All public sector banks including the State Bank of India come under the purview of the Payment of Bonus Act, 1965, and the intention is that no bonus other than what is required to be paid under the Payment of Bonus Act, 1965, shall be paid to the employees of the State Bank of India or of any other public sector bank. It is proposed to make express provisions in this behalf in the State Bank of India Act, 1955 and the enactments relating to the other public sector banks.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 21st July, 1984.

PRANAB MUKHERJEE.

BILL NO. 60 OF 1984

A Bill to provide for the acquisition and transfer of the undertakings of the Hooghly Docking and Engineering Company Limited with a view to securing the better utilisation of the available infrastructure thereof, to modernise and increase the capacity for shipbuilding and ship repairing so as to reduce the import of ships, vessels and craft and to augment the production of grey iron, non-ferrous and alloy castings by the said undertakings so as to subserve the interests of the general public by ensuring the continued supply of the said articles which are essential to the needs of the economy of the country, and for matters connected therewith and incidental thereto.

WHEREAS the Hooghly Docking and Engineering Company Limited is, through its undertakings, engaged in shipbuilding, ship repairing, general engineering and other activities;

AND WHEREAS the Company has the capacity and infrastructure to effect an increase in the country's capacity to manufacture ships and other vessels and craft;

AND WHEREAS an increase in the production of such vessels and craft would reduce the need of the country to make imports of such vessels and craft and would thereby enable the country to save foreign exchange;

AND WHEREAS the Company is also engaged in the production of grey iron, non-ferrous and alloy castings which are essential to the needs of the economy of the country;

AND WHEREAS the Company had been suffering heavy losses for a number of years mainly due to lack of fresh investment and modernisation;

AND WHEREAS further investment of substantial sums of money is needed to run and modernise the undertakings of the Company: but in view of the serious adverse financial condition of the Company it is not in a position to secure such investment;

AND WHEREAS the liquidation of the Company, by reason of its inability to pay its debts, would prejudicially affect the country's capacity to manufacture such ships, vessels and craft and would thereby be prejudicial to the public interest;

AND WHEREAS in view of the position aforesaid it is necessary to acquire the undertakings of the said Company to enable the Central Government to make necessary investments for securing the proper utilisation of the available facilities for shipbuilding and ship repairing (including the production of vessels and craft) and also for the production of grey iron, non-ferrous and alloy castings which are essential to the needs of the economy of the country;

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement

1. (1) This Act may be called the Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) Act, 1984.

(2) It shall be deemed to have come into force on the 28th day of June, 1984.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date of commencement of this Act;

(*b*) "Commissioner" means the Commissioner of Payments appointed under section 15;

(*c*) "Company" means the Hooghly Docking and Engineering Company Limited, being a company as defined in the Companies
1 of 1956. Act, 1956, and having its registered office at 12, Mission Row, Calcutta-700001;

(*d*) "existing Government company" means a Government company which is carrying on business on the appointed day;

(*e*) "new Government company" means a Government company formed and registered on or after the appointed day;

(*f*) "notification" means a notification published in the Official Gazette;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "specified date", in relation to any provision of this Act, means such date as the Central Government may, by notification, specify for the purposes of that provision and different dates may be specified for different provisions of this Act;

(*i*) words and expressions used herein and not defined but de-
1 of 1956. fined in the Companies Act, 1956, shall have the meanings, respectively, assigned to them in that Act.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE COMPANY

Transfer to, and vesting in, the Central Government of the undertakings of the Company.

3. On the appointed day, the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, shall, by virtue of this Act, stand transferred to and vested in, the Central Government.

General effect of vesting.

4. (*1*) The undertakings of the Company shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, reserve funds, investments, book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the Company, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

(2) All properties as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting them, and any attachment, injunction, decree or order of any court, tribunal or other authority restricting the use of such properties in any manner shall be deemed to have been withdrawn.

(3) Every mortgagee of any property which has vested under this Act in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property, shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (3) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amount specified in section 8 and also out of the amount determined under section 9, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) Any licence or other instrument granted to the Company in relation to any undertaking which has vested in the Central Government under section 3, at any time before the appointed day and in force immediately before that day, shall continue to be in force on and after such day in accordance with its tenor in relation to, and for the purposes of, such undertaking and on and from the date of vesting of such undertaking under section 5, in an existing Government company, or under section 6, in a new Government company, the existing, or new, Government company, as the case may be, shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to such existing, or new, Government company and such existing, or new, Government company shall hold it for the remainder of the period for which the Company would have held it under the terms thereof.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property which has vested in the Central Government under section 3, instituted or preferred by or against the Company is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of the Company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or, where the undertakings of the Company are directed, under section 5, to vest in an existing Government company or become transferred by virtue of the provisions of section 6 to a new Government company, by or against such Government company.

5. (*1*) Notwithstanding anything contained in sections 3 and 4, and subject to the provisions of section 6, the Central Government may, if it is satisfied that an existing Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by notification, that the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in that existing Government company either on the date of publication of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

Power of Central Government to direct vesting of the undertakings of the Company in an existing Government company.

(*2*) Where the right, title and interest of the Company in relation to its undertakings vest, under sub-section (*1*), in an existing Government company, that Government company shall, on and from the date of such vesting be deemed to have become, and until the transfer of the undertakings by virtue of the provisions of section 6, to a new Government company, be deemed to be, the owner in relation to such undertakings and the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become, and until the date of such transfer, be deemed to be, the rights and liabilities, respectively, of that existing Government company.

6. (*1*) Notwithstanding anything contained in sections 3 and 4, where the undertakings of the Company have been directed, under sub-section (*1*) of section 5, to vest in an existing Government company, the Central Government may, if it is satisfied that a new Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, declare, by notification, that the undertakings of the Company be transferred to that new Government company; and on the issue of such declaration, the right, title and interest of the Company in relation to its undertakings, which had been directed under sub-section (*1*) of section 5 to vest in an existing Government company, shall, instead of continuing to vest in that existing Government company, vest in that new Government company with effect from the date on which such declaration is made.

Transfer of undertakings of Company from an existing Government company to a new Government company.

(*2*) Where the right, title and interest of the existing Government company in relation to the undertakings of the Company vest under sub-section (*1*) in a new Government company, that new Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings and the rights and liabilities of the existing Government company in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of that new Government company.

7. (*1*) Every liability, other than the liability specified in sub-section (*2*), of the Company in respect of any period prior to the appointed day, shall be the liability of the Company and shall be enforceable against it, and not against the Central Government, or where the undertakings of the Company vest in an existing, or a new, Government company, against such Government company.

Company to be liable for certain prior liabilities.

(*2*) Any liability arising in respect of advances from customers for shipbuilding and non-shipbuilding orders shall, on and from the appointed day, be the liability of the Central Government or of the exist-

ing, or new, Government company aforesaid, and shall be discharged by that Government or, as the case may be, the existing, or new, Government company.

(*3*) For the removal of doubts, it is hereby declared that,—

(*a*) save as otherwise expressly provided in this Act, no liability of the Company in relation to its undertakings, in respect of any period prior to the appointed day, shall be enforceable against the Central Government, or where the undertakings of the Company vest in an existing, or a new, Government company, against such Government company;

(*b*) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company, passed on or after the appointed day in respect of any matter, claim or dispute, which arose before that day, shall be enforceable against the Central Government, or where the undertakings of the Company vest in an existing, or a new, Government company, against such Government company;

(c) no liability incurred by the Company before the appointed day for the contravention of any provision of law for the time being in force shall be enforceable against the Central Government, or where the undertakings of the Company vest in an existing, or a new, Government company, against such Government company.

CHAPTER III

PAYMENT OF AMOUNTS

Payment of amount.

8. For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings, there shall be paid by the Central Government to the Company, in cash, and in the manner specified in Chapter VI, an amount of rupees six hundred and fifty lakhs.

Payment of further amount.

9. (*1*) The amount specified in section 8 shall carry simple interest at the rate of four per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the Central Government to the Commissioner.

(*2*) The amount determined in accordance with the provisions of sub-section (*1*) shall be paid by the Central Government to the Company in addition to the amount specified in section 8.

(*3*) For the removal of doubts, it is hereby declared that the liabilities of the Company, in relation to its undertakings which have vested in the Central Government under section 3, shall be discharged from the amount referred to in section 8, and also from the amount determined under sub-section (*1*) in accordance with the rights and interests of the creditors of the Company.

CHAPTER IV

MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE COMPANY

Management, etc, of the undertakings of the Company

10. The general superintendence, direction, control and management of the affairs and business of the undertakings of the Company, the right, title and interest in relation to which have vested in the Central Government under section 3, shall,—

(*a*) where a direction has been made by the Central Government under sub-section (*1*) of section 5, vest, on and from the date specified in such direction, in the existing Government company specified therein; or

(*b*) where a declaration has been made under sub-section (*1*) of section 6, vest, on and from the date of such declaration, in the new Government company specified therein,

and thereupon the existing, or new, Government company, as the case may be, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to the undertakings owned by it.

Duty of persons in charge of management of the undertakings of the Company to deliver all assets, etc.

11. (*1*) On the vesting of the management of the undertakings of the Company in the existing, or new, Government company, all persons in charge of the management of the undertakings of the Company immediately before such vesting, shall be bound to deliver to such Government company, all assets, books of account, registers and other documents in their custody relating to the undertakings of the Company.

(*2*) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the existing, or new, Government company and such Government company may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the Company shall be conducted or in relation to any other matter arising in the course of such management.

Duty of persons to account for assets, etc., in their possession.

12. (*1*) Any person who has, on the appointed day, in his possession or under his control, any assets, books documents or other papers relating to any of the undertakings owned by the Company, which have vested in the Central Government or in the existing, or new, Government company under this Act, and which belong to the Company or would have so belonged, if the undertakings owned by the Company had not vested in the Central Government or such Government company, shall be liable to account for the said assets, books, documents and other papers to the Central Government or the Government company and shall deliver them up to the Central Government or the Government company or to such person or persons as the Central Government or the Government company may specify in this behalf.

(*2*) The Central Government may take or cause to be taken all necessary steps for securing possession of the undertakings of the Company which have vested in it under section 3.

(*3*) The Company shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete

inventory of all its properties and assets, as on the appointed day, pertaining to the undertakings which have vested in the Central Government under section 3, and, for this purpose, the Central Government or the existing, or new, Government company shall afford to the Company all reasonable facilities.

CHAPTER V

PROVISIONS RELATING TO THE EMPLOYEES OF THE COMPANY

Continuance of employees.

13. (*1*) Every person who has been, immediately before the appointed day, employed in any of the undertakings of the Company shall become,—

(*a*) on and from the appointed day, an employee of the Central Government; and

(*b*) where the undertakings of the Company are vested in an existing, or a new, Government company, an employee of that company on and from the date of such vesting,

and shall hold office or service under the Central Government or the existing, or new, Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the existing, or new, Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the existing, or new, Government company, as the case may be:

Provided that, unless any extension of service is granted to such person after the appointed day in accordance with the rules in that behalf in force for the time being, such person shall retire compulsorily from the service of the Central Government or the existing, or new, Government company, as the case may be,—

(*a*) where he has attained or attains the age of fifty-eight years before, or on, or within a period of three months from, the appointed day, on the date of expiry of the said period of three months or on the date on which he shall retire compulsorily from service in accordance with the conditions of service applicable to him immediately before the appointed day, whichever date is earlier;

(*b*) in any other case, on his attaining the age of fifty-eight years.

(*2*) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in any undertaking of the Company to the Central Government or the existing, or new, Government company shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority. 14 of 1947.

Provident fund and other funds.

14. (1) Where the Company has established a provident fund, superannuation fund, welfare fund or any other fund for the benefit of the persons employed in any of the undertakings of the Company, the monies relatable to the officers or other employees, whose services have become transferred, by or under this Act to the Central Government or the existing, or new, Government company, shall, out of the monies standing, on the appointed day, to the credit of such provident fund, superannuation fund, welfare fund or other fund, stand transferred to, and shall vest in, the Central Government or the Government company, as the case may be.

(2) The monies which stand transferred under sub-section (1) to the Central Government or the existing, or new, Government company, as the case may be, shall be dealt with by that Government or that company in such manner as may be prescribed.

CHAPTER VI

COMMISSIONER OF PAYMENTS

Appointment of Commissioner of Payments.

15. (1) The Central Government shall, for the purpose of disbursing the amounts payable to the company under sections 8 and 9, by notification, appoint a Commissioner of Paymoaths.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

Payment by the Central Government to the Commissioner.

16. (1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company—

(a) an amount equal to the amount specified in section 8, and

(b) an amount equal to the amount payable to the Company under section 9.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner, in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) Records shall be maintained by the Commissioner in respect of the undertakings of the Company in relation to which payment has been made to him under this Act.

(4) The interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall enure to the benefit of the Company.

Certain powers of the Central Government or the Government company.

17. (1) The Central Government or the existing, or new, Government company, as the case may be, shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Company, in relation to its undertakings which have vested in the Central Government or such Government company, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

(2) The Central Government or the existing, or new, Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by that Government or Government company, after the appointed day for discharging any liability of the Company in relation to any period prior to the appointed day; and every such claim shall have priority in accordance with the priorities attaching, under this Act, to the matter in relation to which such liability has been discharged by the Central Government or the Government company.

(3) Save as otherwise provided in this Act, the liabilities of the Company in respect of any transaction prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the Company.

Claims to be made to the Commissioner.

18. Every person having a claim against the Company with regard to any of the matters specified in the Schedule pertaining to the undertakings of the Company shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days and not thereafter.

Priority of claims.

19. The claims made under section 18 shall have priorities in accordance with the following principles, namely:—

(a) Category I shall have precedence over all other categories and Category II shall have precedence over Category III, and so on;

(b) the claims specified in each of the categories shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly; and

(c) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

Examination of claims.

20. (1) On receipt of the claims made under section 18, the Commissioner shall arrange the claims in the order of priorities specified in the Schedule and examine the same in accordance with such order of priorities.

(2) If, on examination of the claims, the Commissioner is of opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the claims in respect of such lower category.

Admission or rejection of claims.

21. (1) After examining the claims with reference to the priorities set out in the Schedule, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of any daily newspaper in the English language having circulation in the major part of the country and one issue of any daily newspaper in such regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the period specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, by order in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he may hold his sittings and shall, for the purpose of making an investigation under this Act, have the same powers as are vested in a civil court under the Code of
5 of 1908. Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228
45 of 1860. of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the
2 of 1974. Code of Criminal Procedure, 1973.

(7) A claimant, who is dissatisfied with the decision of the Commissioner, may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, such appeal shall lie to the High Court exercising jurisdiction over the place in which the registered office of the Company is situated and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

Disbursement of money by the Commissioner to claimants.

22. After admitting a claim under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due, and on such payment, the liability of the Company in respect of such claim shall stand discharged.

23. (*1*) If, out of the monies paid to him in relation to the undertakings of the Company, there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall disburse such balance to the Company.

claimants.

Disbursement of amounts to the compan

(*2*) Where the possession of any machinery, equipment or other property has vested in the Central Government or the existing, or new, Government company under this Act, but such machinery, equipment or other property does not belong to the Company, it shall be lawful for the Central Government or the existing, or new, Government company to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by the Company immediately before the appointed day.

Undisbursed or unclaimed amount to be deposited to the general revenue account.

24. Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner, before his office is finally wound up to the general revenue account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any, for payment of the claim, being treated as an order for the refund of revenue.

CHAPTER VII

MISCELLANEOUS

Act to have overriding effect.

25. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act or in any decree or order of any court, tribunal or other authority.

Contracts to Cease to have effect unless ratified by the Central Government or the Government company.

26. Every contract entered into by the Company in relation to its undertakings, which has vested in the Central Government under section 3, for any service, sale or supply and in force immediately before the appointed day, shall, on and from the expiry of one hundred and eighty days from the appointed day, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government or the existing, or new, Government company, in which such undertakings have been vested under this Act, and in ratifying such contract, the Central Government or the Government company may make such alteration or modification therein as it may think fit:

Provided that the Central Government or such Government company shall not omit to ratify a contract and shall not make any alteration or modification in a contract—

(*a*) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the Central Government or the Government company; and

(*b*) except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

Protection of action taken in good faith.

27. (*1*) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government or the existing, or new, Government company or other person authorised by the Central Government or the Government company for anything which is in good faith done or intended to be done under this Act.

(*2*) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees or the existing, or new, Government company or other person authorised by the Central Government or the Government company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

Delegation of powers.

28. (*1*) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the powers conferred by this section, section 31 and section 32, may also be exercised by such person or persons as may be specified in the notification.

(*2*) Whenever any delegation of power is made under sub-section (*1*), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

Penalties.

29. Any person who,—

(*a*) having in his possession, custody or control any property forming part of the undertakings of the Company, wrongfully withholds such property from the Central Government or the existing, or new, Government company; or

(*b*) wrongfully obtains possession of, or retains, any property forming part of the undertakings of the Company; or

(*c*) wilfully withholds or fails to furnish to the Central Government or the existing, or new, Government company or any person or body of persons specified by that Government or the Government company, as the case may be, any document relating to the undertakings of the Company, which may be in his possession, custody or control; or

(*d*) fails to deliver to the Central Government or the existing, or new, Government company or to any person or body of persons specified by that Government or the Government company, any

assets, books of account, registers or other documents in his possession, custody or control, relating to the undertakings of the Company; or

(*e*) wrongfully removes or destroys any property forming part of the undertakings of the Company; or

(*f*) prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

Offences by companies.

30. (*1*) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Power to make rules.

31. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the time within which, and the manner in which, an intimation shall be given to the Commissioner under sub-section (*3*) of section 4;

(*b*) the manner in which the monies in any provident fund or other fund under section 14 shall be dealt with;

(*c*) any other matter which is required to be, or may be, prescribed.

(*3*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days

which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties.

32. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

Repeal and saving.

7 of 1984.

33. (*1*) The Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1984, is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

(*See* sections 18, 20, 21 and 23)

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE COMPANY

Category I—

(*a*) Wages, salaries and other dues payable to the employees of the Company.

(*b*) Arrears in relation to contributions to be made by the Company to the provident fund, Employees' State Insurance Fund, Life Insurance Corporation premium and any other arrear under any law for the time being in force.

Category II—

Loans and interests for which Government of India have given guarantees to the public financial institutions.

Category III—

Secured loans with interest advanced by—

(*a*) public financial institutions;

(*b*) banks.

Category IV—

Statutory dues.

Category V—

Unsecured loans with interest advanced by the public financial institutions, banks or other creditors.

Category VI—

Any credit availed of by the Company for the purpose of carrying on any trading or manufacturing operations.

Category VII—

Any other loans or fees

STATEMENT OF OBJECTS AND REASONS

The Hooghly Docking and Engineering Company Limited consists of two production units, namely, Salkia Works at Salkia, Howrah and Port Engineering Works at Howrah. The Company is engaged in shipbuilding and ship repairing and in the production of grey iron, non-ferrous and alloy castings. More than 2,500 persons are employed in the aforesaid two units.

2. The units had become sick ever since mid sixties and assistance from the Industrial Reconstruction Corporation of India (IRC) was made available to it from 1973 onwards. It was being managed by IRCI since then. However, the units continued to be sick due to lack of adequate finance for working capital, fresh investment and modernisation. Interest burden, which continued to mount owing to accumulated losses, created further difficulties. IRCI also found it no longer possible to finance the units further. Employees' dues and other payments went into arrears. Wages of the employees could not be paid in time. Because of the uncertainty about the future of the Company, many technical and managerial personnel left the Company. It became difficult to keep the Company's operations going.

3 The revival of the undertakings by restructuring the capital was considered to be an immediate necessity for the purpose of securing the better utilisation of the infrastructure of the undertakings to modernise and increase the capacity for shipbuilding and ship repairing so as to reduce the import of ships and to augment the production of grey iron, non-ferrous and alloy castings by the said undertakings so as to ensure the continued supply of the said articles. The revival was also considered necessary to save the workers employed in the undertakings from unemployment. Among the various alternatives, acquisition and transfer of the undertakings by the Government was considered to be the only effective alternative to achieve the process quickly followed by a modernisation programme involving substantial capital expenditure. The Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1984 (7 of 1984) was accordingly promulgated on the 28th June, 1984.

4. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI; NARAYAN DATT TIWARI.

The 19th July, 1984.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

(Copy of letter No. 1(12)/83-HE. II, dated the 24th July, 1984 from Shri Narayan Datt Tiwari, Minister of Industry to the Secretary-General, Lok Sabha.)

The President, having been informed of the subject matter of the Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) Bill, 1984, recommends under clauses (1) and (3) of article 117 of the Constitution the introduction of the said Bill in and its consideration by Lok Sabha.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that, on the appointed day, the right, title and interest of the Company in relation to its undertakings, shall stand transferred to, and vested in, the Central Government.

2. Under sub-clause (2) of clause 7 of the Bill, any liability arising in respect of advances from customers for shipbuilding and non-shipbuilding orders shall, on and from the appointed day, *i.e.*, on and from the 28th June, 1984, be the liability of the Central Government or of the existing, or new, Government company in which the undertakings stand vested. It is estimated that this amount is likely to be of the order of Rs. 1,700 lakhs.

3. Clause 8 of the Bill provides for payment in cash an amount of rupees six hundred and fifty lakhs for the transfer to, and vesting in, the Central Government the right, title and interest of the Company in relation to its undertakings.

4. Sub-clause (1) of clause 9 of the Bill provides for payment of simple interest at the rate of four per cent. per annum on the amount specified under clause 8 for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the Central Government to the Commissioner of Payments. It is estimated that this amount will be of the order of Rs. 2.20 lakhs per month.

5. Clause 15 of the Bill provides that the Central Government shall appoint a Commissioner of Payments and may also appoint such other persons as it may think fit to assist the Commissioner and that the salaries and allowances of the Commissioner and other persons appointed under the said clause shall be defrayed out of the Consolidated Fund of India. The estimated expenditure on this account is likely to be of the order of Rs. 25,000 per month.

6. Funds will also have to be provided to the existing, or new, Government company in which the undertakings of the Hooghly Docking and Engineering Company Limited stand vested, towards rectification of immediate deficiencies during Phase I period, and layout of the units, transfer of technology and provision of balancing equipment, when required during Phase II period. The estimated cost of implementing Phase I and Phase II would be around Rs. 800 lakhs.

7. It is anticipated that all the liabilities specified in the Schedule to the Bill are not likely to be discharged fully by the Commissioner of Payments out of the amounts paid to him under the provisions of the Bill. The Central Government proposes to assume some of the undischarged liabilities, such as, repayment of secured loans advanced by the banks and the financial institutions and the interest thereon. For this purpose, the liabilities on account of interest on the loans are proposed to be assumed up to the appointed day in respect of all these loans except the ones advanced under the guarantees given by the Central Government where the interest liabilities will be assumed in terms of the guarantees. The precise quantum of liability on this account will be known only after the Commissioner of Payments has made available his report.

8. The Bill, if enacted, is not likely to involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 31 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. The matters in respect of which rules may be made, *inter alia*, relate to the time within which, and the manner in which, intimation, regarding any mortgage, charge, lien or other interest in, or in relation to, the properties which have vested in the Central Government under clause 3 of the Bill, shall be given to the Commissioner of Payments and the manner in which the moneys in any provident fund, superannuation, welfare or other fund maintained by the Company shall be dealt with by the Central Government or the existing, or new, Government company, as the case may be.

2. The matters in respect of which rules may be made are matters of procedure and administrative detail. The delegation of legislative power is thus of a normal character.

SUBHASH C. KASHYAP,
Secretary-General.

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1984